

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 HOUSE BILL 2326

By: McDugle and **Hilbert**

7 AS INTRODUCED

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2011, Section 1750.5, as last
10 amended by Section 11, Chapter 373, O.S.L. 2014 (59
11 O.S. Supp. 2018, Section 1750.5), which relates to
12 the Oklahoma Security Guard and Private Investigator
13 Act; authorizing armed security guard licensees to
14 carry firearm under certain circumstances; and
15 providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1750.5, as
18 last amended by Section 11, Chapter 373, O.S.L. 2014 (59 O.S. Supp.
19 2018, Section 1750.5), is amended to read as follows:

20 Section 1750.5 A. Licenses authorized to be issued by the
21 Council on Law Enforcement Education and Training (CLEET) shall be
22 as follows:

- 23 1. Security Agency License;
- 24 2. Investigative Agency License;
3. Private Investigator License (unarmed);
4. Security Guard License (unarmed);

5. Armed Security Guard License;
6. Special Event License (unarmed);
7. Armed Private Investigator License;
8. Bail Enforcer License; and
9. Armed Bail Enforcer License.

B. Any qualified applicant meeting the requirements for more than one of the positions of private investigator, security guard, , armed security guard, bail enforcer, or armed bail enforcer may be issued a separate license for each position for which qualified, or in the discretion of the Council, a combination license provided the required license fees are paid.

C. 1. A private investigator may carry a firearm, if the private investigator also performs the functions of an armed security guard, under the authority of the armed security guard license.

2. If the private investigator performs no functions of an armed security guard, the Council may issue an armed private investigator license. If a person has been issued an armed private investigator license, the Council may issue an armed bail enforcer license if the applicant is otherwise eligible and qualified. The applicant for an armed private investigator license must complete Phase I, III and IV training and pass the psychological examination and state test; provided however, active certified peace officers and retired certified peace officers shall be exempt from the

1 psychological examination as provided in Section 1750.3A of this
2 title, and active certified peace officers of any state, county or
3 municipal law enforcement agency in this state shall be exempt from
4 the Phase I, III and IV training and state test for an armed private
5 investigator. The Council will charge the same fee for the armed
6 private investigators license as the cost of the armed security
7 guard license; provided however, an active certified peace officer
8 who is an applicant for an armed private investigator or armed
9 security guard license shall be charged only twenty percent (20%) of
10 the required fee.

11 3. Any person issued an armed private investigator license or
12 armed security guard license may carry a concealed or unconcealed
13 firearm when on and off duty, provided the person is in possession
14 of a valid driver license and either a valid armed private
15 investigator license or valid armed security guard license.

16 4. Any person issued an armed bail enforcer license may carry a
17 concealed approved pistol, or may open-carry an approved pistol with
18 a visible bail enforcer badge affixed to the holster or belt
19 immediately next to the firearm while wearing clearly marked apparel
20 designating the person as a "Bail Enforcer" or "Bail Enforcement"
21 when actively engaged in the recovery of a defendant, subject to all
22 rules for use and conduct of firearms promulgated by the Council.
23 An armed bail enforcer shall be permitted to carry a concealed
24 pistol when not actively engaged in the recovery of a defendant

1 provided the bail enforcer badge authorized or issued by CLEET and a
2 state-issued driver license or identification card are in the
3 possession of the person while carrying the firearm.

4 D. Any identification card or badge issued to a person meeting
5 the license requirements for an armed security guard, an armed
6 private investigator or armed bail enforcer shall be distinct and
7 shall explicitly state that the person is authorized to carry a
8 firearm pursuant to the provisions of the Oklahoma Security Guard
9 and Private Investigator Act or the Bail Enforcement and Licensing
10 Act. Upon receipt of the license and identification card, the armed
11 security guard, armed private investigator or armed bail enforcer is
12 authorized to carry a firearm subject to the respective provisions
13 of the Oklahoma Security Guard and Private Investigator Act or the
14 Bail Enforcement and Licensing Act and the rules promulgated by the
15 Council.

16 E. The Council may issue a conditional license to a person
17 employed by a security or investigative agency as a trainee for a
18 security guard, armed security guard, or private investigator
19 position, when the person has submitted a properly completed
20 application, made under oath, subject to the following conditions:

21 1. A conditional license shall authorize employees to perform
22 the same functions that regular licensees perform, but subject to
23 supervision by the employing agency as the Council may prescribe;
24

1 2. The holder of a conditional license shall complete the
2 necessary training requirements within one hundred eighty (180) days
3 from the effective date of the conditional license, after which the
4 conditional license shall expire;

5 3. The holder of a conditional license as an armed security
6 guard shall not carry a firearm in the performance of duties until
7 after completing a course of firearms training as prescribed by the
8 Council, and having been issued a regular license by the Council;

9 4. A conditional license may be renewed at the discretion of
10 the Council, if necessary to allow an applicant to complete any
11 training required for a regular license;

12 5. When the Council finds that a conditional license holder has
13 completed the required training and is otherwise qualified for a
14 license pursuant to the provisions of the Oklahoma Security Guard
15 and Private Investigator Act, the Council shall issue a regular
16 license; and

17 6. The Council shall be prohibited from issuing a conditional
18 license to a bail enforcer under the Bail Enforcement and Licensing
19 Act.

20 F. A Security Agency License may be issued to an individual,
21 corporation, or other legal entity meeting the following
22 qualifications:

23 1. If the license is to be issued in the name of a legal entity
24 other than a natural person, the applicant must furnish proof that

1 the entity is legally recognized, such as the issuance of a
2 corporate charter; and

3 2. The executive officer, manager, or other person in charge of
4 supervising security guards in the performance of their duties shall
5 be a licensed security guard.

6 G. An Investigative Agency License may be issued to an
7 individual, corporation, or other legal entity meeting the following
8 qualifications:

9 1. If the license is to be issued in the name of a legal entity
10 other than a natural person, the applicant must furnish proof that
11 the entity is legally recognized, such as the issuance of a
12 corporate charter;

13 2. Any person, otherwise qualified, may own a private
14 investigation agency; and

15 3. A self-employed private investigator who employs no other
16 investigators shall also be licensed as an investigative agency, but
17 shall only be required to be insured or bonded as a self-employed
18 private investigator.

19 H. A Security Guard License, Armed Security Guard License,
20 Private Investigator License, Armed Private Investigator License, or
21 combination thereof may be issued to an applicant meeting the
22 following qualifications. The applicant shall:

23 1. Be a citizen of the United States or an alien legally
24 residing in the United States;

1 2. Be at least eighteen (18) years of age, except that an
2 applicant for an Armed Security Guard License shall be at least
3 twenty-one (21) years of age;

4 3. Have successfully completed training requirements for the
5 license applied for, as prescribed by the Council;

6 4. Be of good moral character;

7 5. Not have a record of a felony conviction;

8 6. Not have a record of conviction for larceny, theft, false
9 pretense, fraud, embezzlement, false personation of an officer, any
10 offense involving moral turpitude, any offense involving a minor as
11 a victim, any nonconsensual sex offense, any offense involving the
12 possession, use, distribution, or sale of a controlled dangerous
13 substance, any offense involving a firearm, or any other offense as
14 prescribed by the Council, as provided herein.

15 a. If any conviction which disqualifies an applicant
16 occurred more than five (5) years prior to the
17 application date and the Council is convinced the
18 offense constituted an isolated incident and the
19 applicant has been rehabilitated, the Council may, in
20 its discretion, waive the conviction disqualification
21 as provided for in this paragraph and issue an unarmed
22 security guard license or a private investigator
23 license, but shall not issue an armed guard license to
24

1 the applicant if the felony involved the use of a
2 firearm or was violent in nature.

3 b. If an Oklahoma State Bureau of Investigation records
4 check and a local records check reveal that there are
5 no felony convictions, criminal convictions involving
6 moral turpitude, or any other disqualifying
7 convictions as specified in the Oklahoma Security
8 Guard and Private Investigator Act or prescribed by
9 the Council, then the Council may conditionally issue
10 an armed security guard license pending completion of
11 the criminal history and background check.

12 c. Under oath, the applicant shall certify that he or she
13 has no disqualifying convictions as specified in the
14 Oklahoma Security Guard and Private Investigator Act
15 or by the Council.

16 d. The applicant shall further meet all other
17 qualifications.

18 e. If upon completion of the required background
19 investigation it is discovered that a disqualifying
20 conviction exists, the Council shall immediately
21 revoke the armed guard license of the applicant;

22 7. Make a statement that the applicant is not currently
23 undergoing treatment for a mental illness, condition, or disorder,
24 make a statement whether the applicant has ever been adjudicated

1 incompetent or committed to a mental institution, and make a
2 statement regarding any history of illegal drug use or alcohol
3 abuse. Upon presentation by the Council on Law Enforcement
4 Education and Training of the name, gender, date of birth, and
5 address of the applicant to the Department of Mental Health and
6 Substance Abuse Services, the Department of Mental Health and
7 Substance Abuse Services shall notify the Council within ten (10)
8 days whether the computerized records of the Department indicate the
9 applicant has ever been involuntarily committed to an Oklahoma state
10 mental institution. For purposes of this subsection, "currently
11 undergoing treatment for a mental illness, condition, or disorder"
12 means the person has been diagnosed by a licensed physician or
13 psychologist as being afflicted with a substantial disorder of
14 thought, mood, perception, psychological orientation, or memory that
15 significantly impairs judgment, behavior, capacity to recognize
16 reality, or ability to meet the ordinary demands of life and such
17 condition continues to exist; and

18 8. Make a statement regarding misdemeanor domestic violence
19 charges.

20 I. A special event license may be issued to an employee of a
21 security agency who is hired on a temporary basis as an unarmed
22 security guard for a particular event. An application for a special
23 event license shall be made by the agency employing the applicant.
24 The agency shall certify to the Council that the applicant meets the

1 qualifications for security guards, pursuant to subsection H of this
2 section.

3 J. 1. All persons and agencies shall obtain and maintain
4 liability coverage in accordance with the following minimum
5 standards:

- 6 a. general liability insurance coverage for bodily
7 injury, personal injury, and property damage, with
8 endorsements for personal injury including false
9 arrest, libel, slander, and invasion of privacy, or
- 10 b. a surety bond that allows persons to recover for
11 actionable injuries, loss, or damage as a result of
12 the willful, or wrongful acts or omissions of the
13 principal and protects this state, its agents,
14 officers and employees from judgments against the
15 principal or insured licensee, and is further
16 conditioned upon the faithful and honest conduct of
17 the principal's business.

18 2. Liability coverages and bonds outlined in this section shall
19 be in the minimum amounts of One Hundred Thousand Dollars
20 (\$100,000.00) for agencies, Ten Thousand Dollars (\$10,000.00) for
21 armed security guards and armed private investigators, or
22 combination armed license; and Five Thousand Dollars (\$5,000.00) for
23 unarmed security guards and self-employed unarmed private
24 investigators who employ no other investigators.

1 3. Security agencies and investigative agencies shall ensure
2 that all employees of these agencies have met the minimum liability
3 coverages as prescribed in this section.

4 4. Insurance policies and bonds issued pursuant to this section
5 shall not be modified or canceled unless ten (10) days' prior
6 written notice is given to the Council. All persons and agencies
7 insured or bonded pursuant to this section shall be insured or
8 bonded by an insurance carrier or a surety company licensed in the
9 state in which the insurance or bond was purchased, or in this
10 state.

11 5. In lieu of the requirements of this subsection, the Council
12 may accept a written statement from a corporation which is
13 registered with the Oklahoma Secretary of State attesting that the
14 corporation self-insures the general operation of business for the
15 types of liability set out in paragraphs 1 and 2 of this subsection.

16 K. Upon written notice, any license may be placed on inactive
17 status.

18 L. Similar or duplicate agency names will not be issued. Each
19 agency name must be distinguishably different.

20 SECTION 2. This act shall become effective November 1, 2019.

21
22 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/11/2019 -
23 DO PASS, As Coauthored.